

THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

* * * * *

UNITED STATES OF AMERICA	*	6:18-CR-16-RWS-KNM-1
	*	Tyler, Texas
vs.	*	
	*	2:22 p.m. - 3:43 p.m.
HEON JONG YOO	*	April 30, 2018

* * * * *

DETENTION HEARING

BEFORE THE HONORABLE JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE

* * * * *

Proceedings recorded by electronic sound recording
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Orange, Texas 77630 * 409-330-1610

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1 P R O C E E D I N G S

2 2:22 P.M. - APRIL 30, 2018

3 THE COURT: Ms. Baum, you may call the case.

4 DEPUTY CLERK: I call the Case 6:18-CR-16,
5 *United States of America vs. Heon Jong Yoo.*

6 THE COURT: Announcements.

7 MR. COAN: Your Honor, Frank Coan for the
8 United States.

9 MR. MICKELSEN: Mick Mickelsen on behalf of
10 Mr. Yoo.

11 THE COURT: All right, thank you. We're here
12 today -- the Court set a hearing on the Government's
13 Motion for Detention. I believe my understanding is we
14 are going to proceed with the hearing today.

15 Mr. Coan, I believe you have some
16 witnesses you're going to present in support of your
17 motion?

18 MR. COAN: That's correct, Your Honor.

19 THE COURT: All right, how many witnesses do
20 you have?

21 MR. COAN: I have three witnesses.

22 THE COURT: All right, any other evidence you
23 will be presenting?

24 MR. COAN: Your Honor, I'll be asking the
25 Court to take judicial notice of the Indictment. And I

1 also intend to proffer briefly from the report issued
2 by Pretrial Services.

3 THE COURT: All right. Mr. Mickelsen, any
4 objection to judicial notice of the Indictment or a
5 proffer from the Presentence Report?

6 MR. MICKELSEN: No objection.

7 THE COURT: All right. Any evidence that you
8 will be presenting, Mr. Mickelsen?

9 MR. MICKELSEN: The only evidence I have, Your
10 Honor, is a report, a mental health assessment of my
11 client.

12 THE COURT: All right. Well, I'll receive
13 that when the Government rests on their motion.

14 So, Mr. Coan, you may call your first
15 witness.

16 MR. COAN: Thank you, Your Honor. United
17 States calls Special Agent Jim Reed.

18 THE COURT: All right. Agent Reed, if you
19 would, as you make your way up here, just pause here a
20 moment and let Ms. Baum swear you in.

21 DEPUTY CLERK: Do you solemnly swear the
22 testimony you will give in this case now in hearing
23 will be the truth, the whole truth, and nothing but the
24 truth, so help you God?

25 THE WITNESS: Yes, ma'am.

Special Agent James Reed - Direct by Mr. Coan

5

1 THE COURT: All right, you may have a seat in
2 the witness box.

3 All right, Mr. Coan, you may proceed.

4 MR. COAN: Thank you, Your Honor.

5 **SPECIAL AGENT JAMES REED, CALLED BY GOVERNMENT**

6 **DIRECT EXAMINATION**

7 **BY MR. COAN:**

8 Q. If you would, state your name for the record,
9 please.

10 A. James Reed.

11 Q. And how are you currently employed?

12 A. Special Agent with the ATF out of Tyler, Texas.

13 Q. And tell the Court a little bit about how long
14 you've been here and where you went to school.

15 A. I've been a Special Agent since January 2014, been
16 in Tyler since the summer of 2014, have a Bachelor
17 Degree and Master's Degree from Texas A&M University.

18 Q. Thank you. In the course and scope of your
19 employment with ATF, have you become involved in an
20 investigation concerning an individual by the name of
21 Heon Jong Yoo?

22 A. Yes, sir.

23 Q. All right, let's talk a little bit about Mr. Yoo.
24 Just generally, approximately how old is he?

25 A. Approximately 24 years old.

Special Agent James Reed - Direct by Mr. Coan

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1 Q. All right. And where was he born?

2 A. Our records indicate he was born in South Korea.

3 Q. All right. And he's present today, so he came to
4 the United States at some point; is that correct?

5 A. Yes, sir.

6 Q. All right. Is he a United States citizen?

7 A. No, he is not.

8 Q. All right. Does he have legal status here in the
9 United States?

10 A. Yes, we -- the documents we have show he's a legal
11 permanent resident.

12 Q. All right, and that occurred -- he obtained that
13 status approximately 2009; is that correct?

14 A. Yes, sir.

15 Q. And he is not a naturalized United States citizen;
16 is that correct?

17 A. He is not a naturalized United States citizen.

18 Q. All right. To your knowledge, does he have any
19 claim of derivative citizenship?

20 A. We've been told he has no derivative claim of
21 United States citizenship through his parents.

22 Q. Okay. Are you aware of any employment that Mr. Yoo
23 had at the time of his arrest?

24 A. Through our investigation and talking with others,
25 Mr. Yoo has informed people that he has been, off and

Special Agent James Reed - Direct by Mr. Coan

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1 on, employed with the driving companies Uber and Lyft.

2 Q. To your knowledge, does Mr. Yoo have any military
3 service?

4 A. Documents and records indicate that he tried to
5 enlist on two occasions: On September 2015 in New
6 Jersey and January of 2016 out of Texas.

7 Q. All right. And was he accepted or denied on those
8 occasions?

9 A. He's been denied both times. In fact, the Army
10 considered him not psychologically suited for the
11 position of a U.S. soldier.

12 Q. All right. Has your investigation revealed any
13 information about Mr. Yoo's immediate family?

14 A. All indications from our investigation show that he
15 has no immediate family in the Eastern District of
16 Texas.

17 Q. Okay. And based on your investigation, are you
18 able to estimate when Mr. Yoo came to live within the
19 Eastern District of Texas?

20 A. Our estimation shows it would probably be fall of
21 2016 to attend school here.

22 Q. All right. And to your knowledge, does he own a
23 home?

24 A. No, all indications are that he has continually
25 rented the entire time he's been here.

Special Agent James Reed - Direct by Mr. Coan

8

1 Q. Based on your investigation and the investigation
2 of others involved in this case, have you become aware
3 of any mental health issues --

4 A. Yes.

5 Q. -- that Mr. Yoo has?

6 A. We have numerous documents and medical records that
7 show chronic multiple hospitalizations where numerous
8 qualified medical professionals have deemed him
9 dangerous to himself and to others.

10 Q. All right, let's talk about a few of those.

11 Are you familiar with an occasion in April of
12 2013 when Mr. Yoo was brought to the emergency room of
13 a hospital in the Piscataway, New Jersey area by a
14 Rutgers University Police?

15 A. Yes, sir. The records show that he was brought to
16 the hospital after threatening to shoot his resident
17 counselor. There on the medical records it shows he
18 was diagnosed with bipolar disorder, aggressive
19 homicidal ideation, and explosive personality disorder.
20 They deemed him -- a certified mental health official
21 deemed him to be a danger to himself, danger to others,
22 there was notes that he wanted to try to purchase
23 weapons at that time, and he was involuntarily
24 committed to an inpatient facility.

25 Q. All right. Are you familiar with an incident in

Special Agent James Reed - Direct by Mr. Coan

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1 September of 2015, again in the general area of
2 Piscataway, New Jersey, when Rutgers University Police
3 brought Mr. Yoo to the Rutgers University Behavioral
4 Health Care Center?

5 A. Yes, sir. The records from that show that he was
6 brought there after repetitive disruptions, homicidal
7 threats, shouting "Death to the Middle East." They
8 noted he presented as aggressive and threatening. They
9 required chemical and physical restraints. He was
10 diagnosed with a mood disorder, again deemed by a
11 mental health official to be a danger to himself, a
12 danger to others. They noted he continually emitted
13 facts. There was a reference to a 2011 hospitalization
14 that we don't have records for that showed him -- that
15 noted he wanted to shoot people with a gun. And again,
16 he was involuntarily committed to an inpatient facility.

17 Q. All right. Was there another incident in the fall
18 of 2015, October 2015, again in the Piscataway, New
19 Jersey area, involving Mr. Yoo and hospitalization or
20 the need for psychiatric evaluation?

21 A. Yes, sir. He walked into the counseling center and
22 placed a utility knife on the table. The file notes
23 that he was delusional, medication non-compliance, not
24 taking his medication, was transported by the ER to
25 ambulance with police escort and discharged with a

Special Agent James Reed - Direct by Mr. Coan

10

1 followup psychiatric appointment.

2 Q. So, on that occasion, October 2015, he was not
3 involuntarily committed based on your investigation?

4 A. That's what the records reflect, yes, sir.

5 Q. Let's fast forward to November of 2017 here in the
6 Eastern District of Texas. Describe for the Court, if
7 you will, the need for a response by the Texas Rangers
8 to Mr. Yoo's residence.

9 A. The Texas Rangers had to respond due to threats
10 they received that Mr. Yoo was going to travel to kill
11 blacks and Jews according to the reports to DC. He was
12 evaluated by the Crisis Intervention Officer in Smith
13 County Sheriff's Department. A warrant was issued and
14 they were taking him to the East Texas Medical Center
15 for mental health evaluation. Again, medical
16 professionals deemed him harmful to others.
17 Involuntary hospitalization was recommended. However,
18 no beds were available and he was released.

19 Q. All right. Special Agent Reed, if you would, just
20 briefly for purposes of the record, give us an overview
21 of how an individual goes about purchasing a firearm in
22 the United States from a Federal Firearms Licensee.

23 A. So all Federal Firearms Licensees who sell guns
24 are required to have the person buying the gun fill out
25 the ATF Form 4473, which is the Firearms Transaction

Special Agent James Reed - Direct by Mr. Coan

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1 Record. This form contains important information which
2 is required that the person fill out in order to
3 purchase that weapon. With that form, it includes on
4 that form the way that the FFL submits a check through
5 the FBI's National Instant Criminal Background Check
6 System, commonly called NICS. That system determines
7 whether someone or not can purchase a firearm. They
8 either get a "Proceed," in which the firearm is given;
9 a "Delayed," in which they have to wait a period of
10 time until NICS can figure out whether they're denied
11 or not, or a straight-up "Denial" and they're
12 prohibited from transferring the firearm.

13 It's important to note that NICS checks are
14 not required when the person has presented a permit or
15 license that the ATF has deemed a valid alternative to
16 the NICS requirement. That 4473 has a certification on
17 the bottom that says this is a federal form. It puts a
18 notice that lying on this form is a felony under
19 federal and also possibly state law. You sign on the
20 form saying that you have acknowledged that all the
21 information on the form is true and that you have read
22 and understand all the information on the Form 4473.
23 Each of the individual FFLs retain those forms in their
24 own stores for a specified period and those will become
25 the official records of the firearms transaction.

Special Agent James Reed - Direct by Mr. Coan

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1 Q. Let's talk a little bit about the Form 4473. It
2 requires buyers to provide some basic identifying
3 information; is that right?

4 A. Yes, sir, it has basic information that lets the
5 person know exactly who was the person purchasing the
6 weapon.

7 Q. Right, so someone -- the prospective buyer's name
8 and their address; is that right?

9 A. Yeah, name, address, place of birth, where they're
10 living, Social Security number, that kind of
11 information.

12 Q. Do you have to state whether you're a citizen of
13 the United States?

14 A. Yes, sir, that's under -- the next section of the
15 form talks about your legality of actually purchasing
16 the weapon. So it answers questions, such as are you a
17 felon, the 922 prohibitors, and then also asks
18 questions that are reliable -- that are important for
19 the legality of that purchase, including a citizenship,
20 because there are certain restrictions regarding
21 citizenship in purchasing a firearm that have to be
22 met. So that's considered one of those questions that
23 is important for determining the legality of the sale
24 of the firearm.

25 Q. Let's talk a little bit about licensing in the

Special Agent James Reed - Direct by Mr. Coan

13

1 state of Texas regarding possession, carrying,
2 ownership of a handgun. Are you familiar with the
3 license or permit that's issued by the Texas Department
4 of Public Safety?

5 A. Yes, sir, they issue a Texas License to Carry
6 Handgun, commonly referred to as an LCH. It lets that
7 person carry that handgun anywhere that's not
8 explicitly prohibited by the state law. And that is
9 that same document that allows a person to go into a
10 firearms business, Federal Firearms Licensee, and
11 purchase a weapon without a NICS background check. It
12 allows them to carry the gun both concealed and open in
13 the state of Texas, except in places where you see
14 signs like the 3006 or 3007 notice. And it's licensed
15 again by the Texas Department of Public Safety.

16 Q. All right, so the DPS, Department of Public Safety,
17 issues a License to Carry Handgun and a prospective
18 buyer presents that to a Federal Firearms Licensee
19 dealer. And because ATF recognizes the Texas license,
20 is the dealer required to conduct a NICS background
21 check?

22 A. No, they're not once you present a valid or what
23 they perceive to be a valid LCH.

24 Q. Okay. As part of your investigation, have you
25 researched the defendant's acquisition and possession

Special Agent James Reed - Direct by Mr. Coan

14

1 and use of a DPS issued license to carry a handgun?

2 A. Yes, sir.

3 Q. All right. And if you would, just identify for the
4 Court approximately when Mr. Yoo applied for the state
5 permit?

6 A. On or about February 7, 2016.

7 Q. Okay. And the application has a number of
8 questions associated with it or basic identifying
9 information; is that right?

10 A. Yes, sir.

11 Q. All right. And one of the questions asks whether
12 the applicant has received psychiatric treatment; is
13 that correct?

14 A. Yes, sir.

15 Q. All right. And you've reviewed Mr. Yoo's
16 application; is that right?

17 A. Yes, sir.

18 Q. And what was his response to the question about
19 whether he had received psychiatric treatment?

20 A. Mr. Yoo answered "No" to this question.

21 Q. All right. A permit was issued to Mr. Yoo
22 approximately when?

23 A. On or about May 24, 2016.

24 Q. Okay. And at some point Mr. Yoo's License to Carry
25 Handgun in the state of Texas was revoked; is that

Special Agent James Reed - Direct by Mr. Coan

15

1 correct?

2 A. Yes, sir. On or about September 28, 2016, the
3 Texas Department of Public Safety had mailed a letter
4 to Yoo informing him that his License to Carry Handgun
5 was being revoked. According to the letter, the
6 Medical Advisory Board of the Texas Department of State
7 Health Services had determined that he was not capable
8 of exercising sound judgment with respect to the proper
9 use and storage of a handgun. The letter advising under
10 Texas law, he had to surrender his LCH within 10 days
11 upon receipt of the notice unless he requested a
12 hearing, and he did request a hearing on or about
13 October 6, 2016.

14 Q. Was a hearing, in fact -- did a hearing, in fact,
15 take place regarding the revocation of Mr. Yoo's
16 License to Carry Handgun?

17 A. Yes, sir. Yes, sir, I can get it for you.

18 So a hearing took place before Smith County,
19 Texas Precinct 2 Justice of the Peace on or about March
20 15, 2017, and the judge issued an order affirming the
21 revocation of his LCH the same day.

22 Q. And did the file from the Department of Public
23 Safety indicate whether a copy of that order was mailed
24 to Mr. Yoo?

25 A. Yes, sir, the file indicates a copy was mailed.

Special Agent James Reed - Direct by Mr. Coan

16

1 Q. All right, did Mr. Yoo surrender his License to
2 Carry Handgun as required?

3 A. No, sir.

4 Q. Okay. At any point did -- was his License to Carry
5 Handgun seized by state law enforcement officials?

6 A. Yes, sir. On or about October 29, 2017, when the
7 Texas Rangers, the same thing referred to earlier, they
8 took possession of his LCH.

9 Q. So, when they responded to the threat report in
10 late November 2017, they also took possession of
11 Mr. Yoo's revoked License to Carry Handgun?

12 A. Yes, sir.

13 Q. All right. The Indictment in this case concerns
14 seven purchases or attempted purchases of firearms that
15 took place within the Eastern District of Texas; is
16 that correct?

17 A. Yes, sir.

18 Q. And have you reviewed the ATF Form 4473s that
19 correspond with each of the seven counts?

20 A. Yes, sir, I have.

21 Q. Okay. So let's talk about Count One, September
22 13th of 2016, concerning Superior Firearms in Tyler --
23 that's located in Tyler, Texas; is that right?

24 A. Yes, sir, it is a federally licensed firearm dealer
25 in Tyler, Texas.

Special Agent James Reed - Direct by Mr. Coan

17

1 Q. All right. And how was Mr. Yoo's -- well, let me
2 back up. So, on the form, does it indicate that
3 Mr. Yoo was the prospective buyer?

4 A. Yes, sir, it does.

5 Q. And did he sign the form?

6 A. Yes, sir, he did.

7 Q. Okay. And how is "Country of Citizenship" listed
8 on this form?

9 A. He listed his citizenship as a citizen of the
10 United States of America.

11 Q. All right, was a -- was a NICS check performed by
12 Superior Firearms in connection with the September 13,
13 2016 attempted purchase?

14 A. Yes, sir, it was.

15 Q. All right. And what was the result of that NICS
16 background check?

17 A. NICS came back to the FFL and informed them that
18 the transaction was denied, as he had been previously
19 adjudicated mentally defective and\or committed to a
20 mental institution.

21 Q. All right. Count Two concerns a November 3, 2016
22 transaction at First Cash Pawn. Is First Cash Pawn an
23 FFL dealer?

24 A. It is a Federal Firearms dealer in Tyler, Texas,
25 yes, sir.

Special Agent James Reed - Direct by Mr. Coan

18

1 Q. All right. And was Mr. Yoo -- did Mr. Yoo complete
2 a 4473 in connection with this transaction?

3 A. Yes, sir, he did.

4 Q. All right, did he sign the 4473?

5 A. Yes, sir.

6 Q. All right, and how is his "Country of Citizenship"
7 listed on the 4473?

8 A. He listed his "Country of Citizenship" as a citizen
9 of the United States of America.

10 Q. All right, and on that occasion, Mr. Yoo actually
11 purchased some firearms; is that right?

12 A. Yes, sir.

13 Q. Okay, how many?

14 A. He purchased three firearms.

15 Q. All right. And what were those firearms?

16 A. A Ruger LCP 380 pistol, a Ruger 1022 rifle, and a
17 Remington 700 .308 caliber bolt action rifle.

18 Q. All right, counts Three and Four concern two visits
19 to First Cash Pawn, which, as you mentioned, is an FFL
20 dealer located within the Eastern District of Texas; is
21 that right?

22 A. Yes, sir.

23 Q. All right, so the first visit to First Cash Pawn,
24 did Mr. Yoo complete a 4473?

25 A. Yes, sir.

Special Agent James Reed - Direct by Mr. Coan

19

1 Q. And did he sign it certifying that it was true and
2 correct?

3 A. Yes, sir, he did.

4 Q. How was his "Country of Citizenship" listed?

5 A. United States of America.

6 Q. All right. And was a NICS check performed in
7 connection with this first visit to First Cash Pawn?

8 A. Yes, sir, it was.

9 Q. And what was the result?

10 A. He was denied, having previously been adjudicated
11 as mental defective and\or committed to a mental
12 institution.

13 Q. And did your -- did your investigation reveal
14 whether Mr. Yoo returned to First Cash Pawn sometime
15 later that day, November 17, 2016?

16 A. Yes. For some reason he tried again at the same
17 store, another 4473 to buy. It was also denied for the
18 same reason.

19 Q. All right. And that second visit is Count Four of
20 the Indictment; is that correct?

21 A. Yes, sir.

22 Q. All right, Count Five concerns a November 18, 2016
23 transaction, firearms transaction occurring at Academy
24 Sports in Tyler, Texas. Is Academy Sports a Federal
25 Firearms Licensee dealer?

Special Agent James Reed - Direct by Mr. Coan

20

1 A. Yes, sir, it is.

2 Q. All right. In connection with that transaction,
3 did Mr. Yoo complete a Form 4473?

4 A. Yes, sir, he did.

5 Q. Did he sign it certifying that it was true and
6 correct?

7 A. Yes, sir, he did.

8 Q. And how was his citizenship listed on that 4473?

9 A. He listed himself as a citizen of the United States
10 of America.

11 Q. All right. And was Mr. Yoo, in fact, able to
12 acquire a firearm from Academy Sports on November 18th
13 of 2016?

14 A. Yes, sir, he did.

15 Q. All right. And how many and what type?

16 A. He bought a M&P 15 rifle from Academy Sports.

17 Q. All right. On November -- Count Six concerns a
18 November 6th of 2017 transaction occurring at Cash
19 America Pawn in -- is that located in Tyler, Texas?

20 A. Yes, sir, it is. It's a Federal Firearms Licensee
21 out of Tyler, Texas.

22 Q. All right. And in connection with -- in connection
23 with that transaction, did Mr. Yoo complete a Form 4473?

24 A. Yes, sir, he did.

25 Q. Did he sign it certifying that it was true and

Special Agent James Reed - Direct by Mr. Coan

21

1 correct?

2 A. Yes, sir, he did.

3 Q. In connection with that transaction, did Mr. Yoo
4 present his Texas issued License to Carry Handgun?

5 A. Yes, sir, he presented a concealed handgun license.

6 Q. All right. And because he presented his License to
7 Carry Handgun, was a NICS check performed?

8 A. No NICS check was performed.

9 Q. All right, so this is subsequent to the License to
10 Carry Handgun being revoked; is that correct?

11 A. Yes, sir, his license had already been revoked at
12 this time and the hearing had been completed.

13 Q. All right. And was Mr. Yoo, in fact, able to
14 acquire a firearm from Cash America Pawn on November
15 6th of 2017?

16 A. Yes, sir, he was.

17 Q. All right. And how many and what type?

18 A. One shotgun.

19 Q. Okay. And the next day, Mr. Yoo returned to Cash
20 America Pawn; is that correct?

21 A. Yes, sir.

22 Q. All right, and that's Count Seven that concerns the
23 November 7, 2017 transaction. Did Mr. Yoo complete a
24 Form 4473 in connection with that transaction at the
25 Cash America Pawn?

Special Agent James Reed - Cross by Mr. Mickelsen

22

1 A. Yes, sir, he did.

2 Q. And did he sign it certifying that all the
3 information provided was true and correct?

4 A. Yes, sir.

5 Q. At the time of the transaction, did Mr. Yoo present
6 his License to Carry Handgun issued by the state of
7 Texas?

8 A. Yes, sir, he presented a concealed handgun license.

9 Q. All right. And because he presented his License to
10 Carry Handgun, was a NICS check performed?

11 A. No NICS was completed, sir.

12 Q. Okay. And was Mr. Yoo able to acquire a firearm
13 from Cash America Pawn on November 7, 2017?

14 A. Yes, sir, he bought a Mossberg 590 12-gauge shotgun.

15 Q. Thank you.

16 MR. COAN: I'll pass the witness.

17 THE COURT: Thank you.

18 Cross-examination?

19 MR. MICKELSEN: Yes, Your Honor.

20 **CROSS-EXAMINATION**

21 **BY MR. MICKELSEN:**

22 Q. Agent Reed, I have a few questions.

23 With respect to a commitment in -- I believe
24 there were two hospital admissions that you described
25 as commitments in New Jersey; is that correct?

Special Agent James Reed - Cross by Mr. Mickelsen

23

1 A. Yes, sir, in the documentation they were listed as
2 involuntary.

3 Q. Okay. And the first one, can you give me the
4 approximate date?

5 A. Approximately April of 2013.

6 Q. And how long was Mr. Yoo in the hospital at that
7 point in time?

8 A. The records we have are for the transfer, so they
9 did not show the receiving facility.

10 Q. All right, and when you -- when you describe that
11 as a commitment, I mean, was there some kind of
12 judicial hearing in which he was found?

13 A. Not being a medical professional, I'm looking at it
14 and it shows -- the medical records say involuntary
15 hospitalization on grounds of danger to self and to
16 others.

17 Q. Okay, it says hospitalization, not commitment?

18 A. Yeah, it's involuntary -- basically, they are
19 committing him to a hospitalization involuntarily.

20 Q. Well, do you understand how that process works?
21 Like in other words, if a police officer takes somebody
22 and says, "I think this person has mental health,"
23 there's a temporary -- they're held for a few days and
24 they get a doctor to say, "We need to observe this
25 person"?

Special Agent James Reed - Cross by Mr. Mickelsen

24

1 A. Yes, sir. On these records, the ones I went over,
2 besides the Smith County record, these are all from a
3 medical facility. It's not a police officer putting a
4 person in the facility; rather, it's the hospital
5 transferring -- medical professional saying this person
6 needs to go to a --

7 Q. Well, okay, in the same thinking applies. But
8 opposed to a commitment where there's a judicial
9 finding, it usually --

10 A. I don't see any -- to answer your question, I'm
11 not seeing any judges signing anything in these medical
12 records.

13 Q. Okay. And you have no idea how long he was in?

14 A. No, sir, I do not.

15 Q. Okay. And then subsequent to that, there was
16 another one where there was an involuntary
17 hospitalization?

18 A. Yes, sir, and that was referencing around September
19 2015, and that one also made reference to a separate
20 2011 hospitalization.

21 Q. Okay. In the second New Jersey involuntary
22 hospitalization, do you have any idea how long he was
23 in the hospital?

24 A. No, sir, I do not.

25 Q. Okay. And again, you have no evidence that there

Special Agent James Reed - Cross by Mr. Mickelsen

25

1 was a judicial determination that he should be
2 committed as a danger?

3 A. No, sir, just the medical diagnosis that he's a
4 danger.

5 Q. All right. And then a third time he went to the
6 ER, but apparently they released him from the ER; is
7 that your understanding?

8 A. Yes, sir, that's what the records indicate.

9 Q. And then another time there was an admission here
10 in East Texas and, again, they released him from the
11 emergency room, he was not --

12 A. Yes, sir.

13 Q. He was not taken to a psychiatric --

14 A. They recommend, but I guess the facility is full
15 and so he's out.

16 Q. Now, the -- if I understand it correctly, it would
17 be fair to say that in these hospitalizations he had
18 made sort of vague -- like "Death to all Middle
19 Easterners," or something like that; is that your
20 understanding?

21 A. For one of them, sir, there was a "Death to the
22 Middle East," repeated disruptions. Another one, the
23 reference is threatening to shoot his resident
24 counselor, resident assistant. And the other one, the
25 same one that referenced the Middle East, makes a

Special Agent James Reed - Cross by Mr. Mickelsen

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1 reference to wanting to shoot people with guns.

2 Q. Wanting to shoot people with guns?

3 A. Yes, sir.

4 Q. Apart from this threat to his resident counselor,
5 do you know of anything that was specific, like, "I'm
6 going to go to a mosque" or "I want to" -- or sort of
7 these vague expressions of hostility, that you know of?

8 A. Not that I know of, just vague.

9 Q. Now, when he was arrested, you seized his computers
10 and phone; right?

11 A. Yes, sir.

12 Q. Have you looked at that information at all?

13 A. They're still undergoing forensic analysis.

14 Q. So you're not familiar with anything on them?

15 A. No, sir, not to my knowledge.

16 Q. So, again, apart from these sort of vague
17 expressions of hostility, you know, "Death to all
18 Muslims, death to Americans," whatever it might be, the
19 specific one that you know about is the threat to the
20 resident counselor?

21 A. And the other reference to wanting to use a gun to
22 shoot people. That was --

23 Q. Was it directed towards anybody?

24 A. It says, "In 2011 patient wanted to use a gun to
25 shoot people. This resulted with him being

Special Agent James Reed - Cross by Mr. Mickelsen

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1 hospitalized at Carrier Clinic and requires inpatient
2 hospitalization for safety and stabilization as he's a
3 danger to society."

4 Q. Okay. Let me ask you about the 4473 form.

5 A. Yes.

6 Q. First of all, there is no prohibition against
7 non-U.S. citizens from acquiring a gun, is there?

8 A. Oh, there are different classes of American
9 citizens -- or non-citizens who can acquire a firearm.
10 So a illegal immigrant, for instance, cannot acquire a
11 firearm. Certain kinds of visas cannot acquire a
12 firearm, but --

13 Q. Permanent residents.

14 A. Permanent residents can, yes, sir.

15 Q. Okay. And when they ask about your U.S.
16 citizenship status, is the goal to determine whether or
17 not you're a U.S. citizen or a permanent resident and
18 general identification purposes?

19 A. Yes, sir. So, if you're not a U.S. citizen and you
20 check the box for "Other," you're required to provide
21 your alien identification number, which would let the
22 people -- let you know your legal status to buy a
23 firearm, because an illegal immigrant would not have an
24 A-number.

25 Q. And other -- apart from his U.S. citizenship, was

Special Agent James Reed - Cross by Mr. Mickelsen

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1 his identification information correct on the form?

2 A. On all the forms, no, sir.

3 Q. What did he misrepresent?

4 A. There are places where he puts his place of birth
5 as Fort Worth, Texas on two occasions.

6 Q. Well, I guess I can associate that with his
7 citizenship, but I'm talking about like who I am, his
8 name --

9 A. Yes, sir.

10 Q. -- his residence, that is --

11 A. Something besides questions regarding his
12 citizenship and place of birth, that I have not seen
13 any -- in terms of like he hasn't tried to buy under a
14 different name of anything.

15 Q. Okay. Now, you've talked about how his concealed
16 license was revoked.

17 A. Yes, sir.

18 Q. They mailed the Notice of Revocation to him?

19 A. Yes, sir. He answered that notice.

20 Q. He answered the notice that they were seeking to
21 revoke it.

22 A. Yes, sir.

23 Q. And then they had the hearing. Do you know if he
24 was present at the hearing?

25 A. I do not, no, sir.

Special Agent James Reed - Cross by Mr. Mickelsen

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1 Q. Okay. And then I assume you reviewed court records
2 that indicated that the notice was mailed to him?

3 A. Yes, sir.

4 Q. Of the actual order of revocation?

5 A. There's DPS records that show that that order was
6 mailed, attached and mailed to him.

7 Q. When was that mailed, roughly?

8 A. I believe it was almost simultaneous with the court
9 order or the next day.

10 Q. Yeah, but do you know what month and year that was?

11 A. I believe it was probably sometime around March of
12 2017?

13 Q. Okay. And apart from that mailing, at this point
14 in time you don't have any proof that he actually
15 received the notice that his license had been revoked?

16 A. I don't. Only that -- the only thing I have seen
17 is that the order is on the Smith County website.

18 Q. Okay. Now, when you arrested Mr. Yoo, all of his --
19 there were several weapons seized from his apartment;
20 correct?

21 A. Yes, sir, that's correct.

22 Q. And those are -- those are in the custody of the
23 Government now?

24 A. Yes, sir, the AFT has possession of them.

25 Q. All right. So, as it stands, ostensibly, he does

Special Agent James Reed - Redirect by Mr. Coan

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1 not have any weapons in his possession?

2 A. Not that I'm aware of, sir.

3 Q. Okay.

4 A. Though there are weapons he purchased that we have
5 not accounted for.

6 MR. MICKELSEN: All right, I'll pass the
7 witness.

8 THE COURT: All right, thank you.

9 Any redirect?

10 MR. COAN: Just a couple briefly, Your Honor.

11 **REDIRECT EXAMINATION**

12 **BY MR. COAN:**

13 Q. Special Agent Reed, we reviewed the transactions
14 that are the subject of the Indictment in this case.
15 And you had reviewed the Form 4473s that have been
16 completed and signed by Mr. Yoo in connection with each
17 of those seven transactions; is that correct?

18 A. Yes, sir.

19 Q. All right, did you review any other Form 4473s
20 regarding firearms transactions involving Mr. Yoo?

21 A. Yes, sir.

22 Q. On any of those Form 4473s, did Mr. Yoo correctly
23 state that he was not a citizen of the United States?

24 A. Yes, sir, there were multiple occasions when he
25 correctly placed his citizenship as South Korea and

Officer Gregory Harry - Direct by Mr. Coan

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1 provided his A-number as required.

2 MR. COAN: All right, no further questions,
3 Your Honor.

4 THE COURT: Thank you.

5 Any further cross-examination?

6 MR. MICKELSEN: No further questions.

7 THE COURT: Thank you, Agent. You may return
8 to your table.

9 Mr. Coan, you may call your next witness.

10 MR. COAN: Thank you, Your Honor. The United
11 States calls Task Force Officer Greg Harry to the stand.

12 THE COURT: All right. And, Officer, if you
13 can come up here and be sworn as a witness.

14 DEPUTY CLERK: Do you solemnly swear the
15 testimony you will give in this case now in hearing
16 will be the truth, the whole truth, and nothing but the
17 truth, so help you God?

18 THE WITNESS: I do.

19 THE COURT: Have a seat in the witness box.

20 All right, Mr. Coan, you may proceed.

21 MR. COAN: Thank you, Your Honor.

22 **OFFICER GREGORY HARRY, CALLED BY THE GOVERNMENT**

23 **DIRECT EXAMINATION**

24 **BY MR. COAN:**

25 Q. Good afternoon.

Officer Gregory Harry - Direct by Mr. Coan

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1 A. Afternoon.

2 Q. Could you state your name for the record, please.

3 A. Gregory Harry.

4 Q. And how are you currently employed?

5 A. I'm employed by the Tyler Police Department here in
6 Tyler, Texas. I also serve on the Federal Bureau of
7 Investigation's Joint Terrorism Task Force.

8 Q. All right, what's your position with the Tyler
9 Police Department?

10 A. I'm assigned as a detective in our Special
11 Investigations Unit.

12 Q. All right. In the course and scope of your
13 employment, have you come to be involved in an
14 investigation concerning an individual by the name of
15 Heon Jong Yoo?

16 A. Yes, sir.

17 Q. Do you know that individual by any other names?

18 A. Several names: Hank Yoo, Henry Yoo, also Henry
19 Sherman Parker.

20 Q. As part of your investigation, have you become
21 familiar with the encounters between Mr. Yoo and the
22 Tyler Police Department?

23 A. Yes, sir. There have been multiple.

24 Q. All right, can you approximate the number of police
25 encounters for which reports were issued regarding

Officer Gregory Harry - Direct by Mr. Coan

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1 Mr. Yoo?

2 A. There's been over 20 reports.

3 Q. Okay. And has Mr. Yoo ever been criminally
4 trespassed from any establishments in the city of
5 Tyler?

6 A. Yes, sir. My records indicate that there's five
7 separate locations -- I guess actually six: All
8 Wal-Marts within the city of Tyler. There's one Sam's
9 Club, two Tyler Supercuts -- that's a haircut place --
10 the Panera Bread Restaurant and the Cumberland Place
11 Apartments.

12 Q. All right. If you would, just for purposes of the
13 record, explain what it means to be criminally
14 trespassed.

15 A. Sure. So all these places are private
16 establishments. An owner representative of the
17 facility, if they do not want you on their property
18 any more, they issue what we call a Criminal Trespass
19 Warning to the subject, basically saying you are no
20 longer permitted on this property or premises. Most
21 oftentimes, that warning is issued in front of a police
22 officer and then is documented in our reporting system
23 at the Tyler Police Department.

24 Q. All right, thank you. You mentioned that there are
25 more than 20 documented police encounters with Mr. Yoo.

Officer Gregory Harry - Direct by Mr. Coan

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1 Over what time period are we talking about?

2 A. The first document the Tyler Police Department has
3 with Mr. Yoo was on May 1st of 2016, and the 22
4 incidents is roughly through I would say the beginning
5 of or right up to April of 2018.

6 Q. So just a little under two years?

7 A. Yes, sir.

8 Q. Approximately two years?

9 A. That's correct.

10 Q. Okay. All right, so the first encounter is this
11 beginning of May 2016. Let me ask you -- we're going
12 to talk about a few of these examples here. Let me ask
13 you about an October 12, 2016 incident at the Target
14 Store here in Tyler. If you would, just describe to
15 the Court what happened on that occasion.

16 A. Sure. Tyler Police Officers were dispatched to the
17 Tyler -- excuse me, to the Target here in South Tyler
18 after people called our dispatch and said that there
19 was a subject wearing a confederate flag mask with a
20 pistol sticking out. Upon arrival and during their
21 kind of field investigation, witnesses told officers
22 that Yoo was commenting. Mr. Yoo was commenting that
23 he was going to go tell all the black people in the
24 store to come to the checkout line. Witnesses also
25 told officers that Mr. Yoo stated that he was going to

Officer Gregory Harry - Direct by Mr. Coan

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1 "kill all the black people in the store."

2 Q. All right. Let's talk about a November 6, 2016
3 incident at Wal-Mart here in Tyler.

4 A. Yes, sir. Mr. Yoo was again at Wal-Mart. Officers
5 were called as he was using bad language there. Some
6 of the -- well, it was told to officers that Mr. Yoo
7 stated that he was going to be killing a police officer
8 and he believed in the Black Lives Matter Movement. He
9 also claimed that an organization he was a member of
10 was going to start killing cops. There was no further
11 mention of that organization in the report.

12 Q. All right. On August 18, 2017, there was an
13 incident between Mr. Yoo, who was an Uber driver at the
14 time, and one of his riders; is that correct?

15 A. Yes, that's correct.

16 Q. All right. And tell us about that.

17 A. I guess during the ride, the rider reported to the
18 Tyler Police Department that Mr. Yoo stated that he
19 hated all Jews and Muslims and that he wanted to kill
20 all the Jews.

21 Q. All right, there was an incident on December 2nd
22 of 2016 within the city of Tyler involving Mr. Yoo; is
23 that correct?

24 A. That's correct.

25 Q. The police had to respond to a report; is that

Officer Gregory Harry - Direct by Mr. Coan

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1 accurate?

2 A. Yes, sir, of an aggravated robbery.

3 Q. All right.

4 A. Or excuse me, an aggravated assault.

5 Q. All right. If you would, just briefly describe for
6 the Court the circumstances regarding that incident on
7 December 2, 2016.

8 A. Officers were called to the area in reference to
9 an aggravated assault. En route, they were given
10 description of a suspect vehicle and basically stated
11 that four subjects had confronted several people at
12 this residence and that a handgun was displayed.
13 Officers located a vehicle matching that description.
14 Mr. Yoo was found to be the operator of that vehicle
15 along with three other subjects.

16 During a search of the vehicle, several
17 firearms were located, including a handgun, a shotgun,
18 a semi-automatic rifle, and body armor. During their
19 investigation, witnesses stated that one of the
20 individuals in the vehicle had displayed a firearm
21 during their confrontation of several black male
22 subjects at a house on Old Omen Road, if I'm not
23 mistaken.

24 Q. Okay. And was Mr. Yoo arrested?

25 A. He was and charged with aggravated assault with a

Officer Gregory Harry - Direct by Mr. Coan

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1 deadly weapon.

2 Q. All right, and that's a felony in the state of
3 Texas; is that correct?

4 A. Yes, sir, it is.

5 Q. Was Mr. Yoo subsequently indicted?

6 A. He was.

7 Q. That occurred approximately when?

8 A. There were two separate indictments. One was
9 approximately January 26, 2017. And then there was
10 another, basically a re-indictment, on April 20th of
11 2017. Upon discussing that matter with the Smith
12 County District Attorney's Office, there apparently was
13 some confusion as to Mr. Yoo's co-conspirators. They
14 mistakenly placed one of the victim's names as a
15 co-conspirator on the original indictment on January
16 26th, and so they re-indicted it to correct that error.

17 Q. Okay. And what was the disposition of that case?

18 A. It was ultimately dismissed on or about July 27th
19 of 2017.

20 Q. Does -- based on your investigation, have you been
21 able to determine whether there are any pending state
22 criminal charges against Mr. Yoo?

23 A. There is at least one: A criminal trespass
24 offense, a Class B misdemeanor, which that incident
25 stemmed from a February 4, 2018 incident, in which

Officer Gregory Harry - Direct by Mr. Coan

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1 Mr. Yoo was seen at the Wal-Mart in Tyler, Texas by an
2 off-duty Tyler Police Department Officer. His presence
3 there on the premises was in violation of a criminal
4 trespass warning, as we discussed earlier, that was
5 issued on or about November 12, 2016.

6 Q. All right. And a warrant was obtained for his
7 arrest; is that right?

8 A. That's correct.

9 Q. He was arrested?

10 A. He was on or about February 9th of 2018.

11 Q. All right. And then charges were ultimately filed
12 in state court; is that correct?

13 A. That's correct. And they are is still pending. I
14 believe a case currently is set to take place on or
15 about May 23rd of 2018.

16 Q. All right. As part of your investigation, have
17 you conducted any research regarding Mr. Yoo's conduct
18 before coming to the Eastern District of Texas?

19 A. I have.

20 Q. Are you aware of any documented misconduct and
21 encounters with law enforcement officials that occurred
22 prior to him relocating to the Eastern District of
23 Texas?

24 A. There is extensive documentation of contacts that
25 Mr. Yoo has had with law enforcement agencies, not just

Officer Gregory Harry - Direct by Mr. Coan

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1 within the state of Texas, but also in New Jersey and
2 Connecticut, stemming back to at least 2012.

3 Q. All right. You were able to -- your investigation
4 has revealed encounters with law enforcement at Rutgers
5 University; is that correct?

6 A. That's correct.

7 Q. And that took place during the period of 2012 to
8 approximately 2015; is that right?

9 A. That's correct.

10 Q. All right. How about University of Connecticut?

11 A. Correct. There have been encounters there as well
12 with Mr. Yoo. In 2014 is when these incidents are
13 documented.

14 Q. All right. And were you able to locate records of
15 law enforcement encounters with Mr. Yoo in the
16 Dallas\Fort Worth area?

17 A. Yes, sir, that's correct. There have been numerous
18 contacts with Mr. Yoo and other law enforcement
19 agencies, to include the Richland College Police
20 Department; the Collin College Police Department; the
21 Plano, Texas Police Department; the Prosper, Texas
22 Police Department; and the Dallas Police Department, so
23 far.

24 Q. All right. Were you able to obtain copies of these
25 reports that you've described from the various law

Officer Gregory Harry - Direct by Mr. Coan

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1 enforcement agencies?

2 A. Yes, sir, I have -- the only agency I do not have
3 reports for currently at this time is the Plano Police
4 Department.

5 Q. All right. And can you approximate for the Court
6 the number of police reports from Rutgers University
7 Police Department regarding Mr. Yoo?

8 A. Again, over 20.

9 Q. All right. How about University of Connecticut
10 Police Department?

11 A. The University of Connecticut only pulled one case
12 number. However, that report has been supplemented 17
13 times. Some agencies, that's what they do, they just
14 pull one case number. Then as more information is
15 gleaned to the case, they will supplement it later.

16 Q. All right, let's talk about an incident occurring
17 at the University of Connecticut, to which the
18 university police responded on April 30th of 2014. If
19 you would, describe for the Court what occurred in that
20 situation.

21 A. The investigation revealed that a former Marine who
22 apparently befriended Yoo, Mr. Yoo, he described his
23 behavior at a shooting range they attended together.
24 He mentioned that Mr. Yoo would shoot at the head of
25 every target -- or excuse me, at the head of the target

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1 every time, even though range policy specifically
2 prohibited such contact. The report indicates that
3 Mr. Yoo was made aware of this policy, but continued to
4 shoot at the head regardless.

5 Q. I think you mentioned that there was an encounter
6 between members of the Prosper Police -- Prosper, Texas
7 Police Department and the defendant; is that correct?

8 A. Yes, sir, that is correct.

9 Q. And was that in June 2016?

10 A. Yes, sir.

11 Q. All right. If you would, describe to the Court the
12 circumstance surrounding that encounter.

13 A. The Prosper, Texas Police Department responded to
14 a Kroger Grocery Store somewhere in that area after
15 reports that there was a subject who stated that he was
16 going to shoot people. A description was given that
17 the subject was with a truck that had a large
18 confederate flag dangling from it.

19 Upon arrival, officers contacted Mr. Yoo in
20 the parking lot with that vehicle and explained kind of
21 what happened. According to the reports, witness
22 statements were that Mr. Yoo had stated that the Black
23 Lives Matter Movement and their members should be
24 labeled as a terrorist organization and that the
25 Federal Government and the United States Military

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1 should be able to kill them all. He also had made
2 mentioned during that investigation to the officers
3 that he had tried to get in the Army, but was denied
4 for mental issues. During their contact, they
5 determined that Mr. Yoo was, in fact, carrying a
6 concealed handgun at that time, a 1911 .45 caliber
7 pistol. They also located an AR-15 rifle in the back
8 of the vehicle.

9 Q. All right. As part of the investigation, did you
10 become aware of an incident involving Mr. Yoo on the
11 campus of the University of North Texas?

12 A. Yes, sir.

13 Q. All right, and that occurred in September of 2016;
14 is that right?

15 A. That's correct.

16 Q. All right. If you would, just describe for the
17 Court the circumstance surrounding that incident.

18 A. On or about September 9th of -- or excuse me, 6th
19 of 2016, Mr. Yoo was seen bringing a confederate flag
20 to the campus of UNT where he was not a student at
21 that time. He took position on campus engaging other
22 students in -- basically trying to engage them in
23 debate. The UNT paper there on the campus quoted
24 Mr. Yoo as saying that he was "proud to be prejudiced,"
25 and that his purpose there, he told them that he

Officer Gregory Harry - Cross by Mr. Mickelsen

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1 intended to rile up "as many liberals as possible."

2 He also mentioned that he was banned at that
3 time from four separate universities. Doesn't
4 specifically say which. He also made reference to
5 students and apparently to the police that he was
6 carrying a concealed handgun at that time. There's no
7 indicator that the handgun was displayed. However,
8 UNT PD did request and receive a copy of Mr. Yoo's
9 concealed handgun license to verify that.

10 MR. COAN: I'll pass the witness.

11 THE COURT: Cross-examination?

12 MR. MICKELSEN: Just a few questions.

13 **CROSS-EXAMINATION**

14 **BY MR. MICKELSEN:**

15 Q. I may have misunderstood you. You referred to an
16 incident at a Wal-Mart. Did -- you made a reference
17 to Black Lives Matter. Was Mr. Yoo saying he was
18 supportive or opposed to that?

19 A. The report indicates that he was supportive of the
20 Black Lives Matter Movement and that he was going to
21 start shooting police.

22 Q. And then at other times he said that he's opposed
23 to the Black Lives Matter?

24 A. That's correct.

25 Q. All right. The aggravated assault charge, you said

Officer Gregory Harry - Cross by Mr. Mickelsen

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1 that was dismissed in July 2017?

2 A. That's correct.

3 Q. Do you know why it was dismissed?

4 A. You'd have to consult with the Smith County
5 District Attorney's Office on that. I was --

6 Q. To your knowledge, do you have any idea why?

7 A. I was -- it was indicated to me that there was a
8 problem with the victim, that he had a Fifth Amendment
9 right for another offense.

10 Q. On any of the occasions apart from this aggravated
11 assault charge, is he -- there's basically a lot of
12 police reports. Is there any time that he's
13 brandishing a firearm?

14 A. Depends on what your definition of "brandishing" is.

15 Q. Frightening somebody with it, pointing it, waving
16 it.

17 A. No.

18 MR. MICKELSEN: That's all I have.

19 THE COURT: All right, thank you.

20 Mr. Coan, anything further?

21 MR. COAN: No, Your Honor. May this witness
22 be excused?

23 THE COURT: Yes.

24 Any objection, Mr. Mickelsen?

25 MR. MICKELSEN: No.

Officer Mike Medders - Direct by Mr. Coan

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1 THE COURT: Officer, thank you very much for
2 your testimony.

3 THE WITNESS: Thank you, Your Honor.

4 THE COURT: Mr. Coan, you may call your next
5 witness.

6 MR. COAN: Thank you, Your Honor. United
7 States calls Mike Medders to the stand.

8 THE COURT: All right. Mr. Medders, if you
9 would do the same, as you've been observing. Stop here
10 at the witness stand before you proceed to the witness
11 box.

12 DEPUTY CLERK: Do you solemnly swear the
13 testimony you will give in the case now in hearing will
14 be the truth, the whole truth, and nothing but the
15 truth, so help you God?

16 THE WITNESS: I do.

17 THE COURT: You may have a seat.

18 Mr. Coan, you may proceed.

19 MR. COAN: Thank you, Your Honor.

20 **OFFICER MIKE MEDDERS, CALLED BY GOVERNMENT**

21 **DIRECT EXAMINATION**

22 **BY MR. COAN:**

23 Q. Good afternoon.

24 A. Good afternoon.

25 Q. Would you state your name for the record, please.

Officer Mike Medders - Direct by Mr. Coan

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1 A. Mike Medders.

2 Q. Could you spell it?

3 A. I'm sorry, it's M-i-k-e, the last name is Medders,
4 M-e-d-d-e-r-s.

5 Q. Thank you. And how are you currently employed?

6 A. I'm currently employed as the Chief of Police at
7 the University of Texas in Tyler.

8 Q. And how long have you been in that position?

9 A. Twelve and a half years.

10 Q. All right. Would you tell the Court a little bit
11 about your education, where you were before the
12 University of Texas Tyler Police Department.

13 A. Prior to the University of Texas Tyler Police
14 Department, I worked with the Palestine, Texas Police
15 Department from 1990 until 2005. I served beginning as
16 a police cadet going to the East Texas Police Academy.
17 I worked my way up from patrolman and I became
18 Assistant Chief of the department.

19 Q. I would venture to guess the Court is familiar with
20 the University of Texas at Tyler, but for purposes of
21 the record, would you describe the university a little
22 bit, its size, number of students, that type thing.

23 A. The University of Texas Tyler is located here in
24 Tyler, Texas. It has 10,500 enrolled students, 1500
25 resident students. We have a Tyler campus, a Palestine

Officer Mike Medders - Direct by Mr. Coan

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1 campus, a Longview campus, as well as a Houston
2 extension.

3 Q. In the course and scope of your employment as
4 Chief of the UT Tyler Police Department, did you become
5 involved in a student by the name of Heon Jong Yoo?

6 A. Yes, I did.

7 Q. And do you know that individual by any other names?

8 A. Hank. Hank Yoo.

9 Q. All right. Let's talk a little bit about, just for
10 record purposes again, is Mr. Yoo currently enrolled as
11 an undergraduate student at UT Tyler?

12 A. Not currently.

13 Q. Not currently. At one time was he enrolled as an
14 undergraduate?

15 A. Yes, he was.

16 Q. Okay. And when did he become enrolled?

17 A. January 19th was the first notice I had of his
18 enrollment. That day, or within a day or two, was
19 January 19th.

20 Q. Okay, January 19th of 2018?

21 A. 2018.

22 Q. All right. And have you or members of your
23 department, officers within your department at UT
24 Tyler, had encounters with Mr. Yoo?

25 A. Numerous.

Officer Mike Medders - Direct by Mr. Coan

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1 Q. Okay, were those documented in reports issued by
2 your department?

3 A. Yes, they are.

4 Q. Okay, can you approximate the number of police
5 encounters that you or members of your department have
6 had with Mr. Yoo?

7 A. We generated two case reports, official case
8 reports, 11 what we called Field Incident Reports where
9 we respond to something that doesn't include the level
10 of the case. The main case file has been supplemented
11 13 to 15 times. And in addition, the university has
12 generated 22 Behavioral Intervention Reports from
13 members of the university community.

14 Q. All right. If you would, explain to the Court
15 what a Behavioral Intervention Report is or how that's
16 generated or who initiates it.

17 A. We have what's called a Behavioral Intervention
18 Team on campus that intakes reports of any type of
19 troubling behavior from a student. We have a committee
20 that meets regularly. So anyone can go online and
21 submit one of these reports. We receive them from
22 students, staff, and faculty.

23 Q. You testified that Mr. Yoo became enrolled as an
24 undergraduate student at UT Tyler on or about January
25 19th of 2018; is that correct?

Officer Mike Medders - Direct by Mr. Coan

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1 A. That's correct.

2 Q. What was the date of the first police encounter by
3 members of your department with Mr. Yoo?

4 A. The first report was January 19th. We didn't
5 encounter Mr. Yoo on that date.

6 Q. All right. You gave us an approximate number of
7 the documented police encounters with Mr. Yoo while
8 being a member of the university community. Let's talk
9 about a few examples of those.

10 If you would, describe for the Court the
11 circumstances surrounding a February 2, 2018 incident.

12 A. You said, repeat, February 2nd?

13 Q. Yes. Was there an encounter between Mr. Yoo and an
14 African-American student on campus?

15 A. Okay, I have a report, one report from February
16 2nd. I actually have two, but one is that Mr. Yoo made
17 disparaging comments about Martin Luther King, Jr. in
18 the presence of an African-American student as she
19 passed by. It appears the comments were meant to draw
20 a reaction.

21 Q. Is there a documented encounter with an
22 African-American student in which Mr. Yoo is alleged to
23 have commented about possession of a firearm on campus?

24 A. Yes, there is.

25 Q. All right. What's the date of that?

Officer Mike Medders - Direct by Mr. Coan

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1 A. The actual date, I think we were advised of that
2 on February 22nd. It allegedly occurred about a week
3 earlier, so approximately February 15th.

4 Q. All right. If you would, describe the
5 circumstances surrounding that incident to the Court.

6 A. It was reported to us that Mr. Yoo became involved
7 in a conversation with a black male student about the
8 group Black Lives Matter, and the black male was
9 apparently chastising Mr. Yoo for his disparaging
10 remarks. Mr. Yoo told the black male that he has a
11 First Amendment right to free speech and that he also
12 has a Second Amendment right to carry a firearm, and
13 that he carries a firearm in his backpack on campus.

14 Q. To your knowledge, has Mr. Yoo undergone any type
15 of mental health counseling while at the University of
16 Texas at Tyler?

17 A. Yes.

18 Q. Are you aware of any disciplinary action that's
19 been taken by the university against Mr. Yoo?

20 A. Yes, I am.

21 Q. All right. And if you would, describe the nature
22 of any such disciplinary action.

23 A. Mr. Yoo was placed under sanction on or around
24 February 20th for a period of 30 days. That sanction
25 was that he could only go to class, be in the parking

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1 lots of the building he was going to class in, go
2 straight to class, and leave, and go to his counseling
3 appointments with a police escort.

4 Q. In the few months here that Mr. Yoo has been at the
5 University of Texas Tyler, how would you characterize
6 his effect on the campus life?

7 A. My opinion is that he's literally held the
8 university hostage for two months with his disruptive
9 behavior. We responded numerous times to Mr. Yoo's
10 disruptive behavior. Mr. Yoo knew how not to cross us,
11 the police, and how not -- or he knew how to avoid
12 going to jail. In my opinion, he knew just how far he
13 could push things before it would result in his arrest
14 or result in criminal activity.

15 Q. What makes you say that? What's an example?

16 A. Because, I mean, one example is whenever -- the
17 very first time I met with him, he talked about his
18 First Amendment right to free speech. I explained to
19 him the difference between free speech and language
20 that would tend to incite a breach of the peace, which
21 would obviously result in criminal activity. He
22 advised me at that point that he loves the police, that
23 he supports the police, and he's definitely not here to
24 cause us any problems and that he would abide by
25 whatever advice we gave him. That's just one example

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1 of his cooperation with us.

2 Another example would be, after we received a
3 report of the firearm, we had an encounter with Mr. Yoo
4 where we waited for him to come to class because we
5 wanted to verify whether or not he would -- that he was
6 carrying a firearm in his backpack. He voluntarily
7 consented to a search of that backpack, which was
8 negative for firearms.

9 And any time that we dealt with Mr. Yoo, you'd
10 have to say that he was respectful towards us as police.
11 Q. Based on your investigation or the investigation of
12 officers under your supervision, are you aware of any
13 threats of violence that Mr. Yoo has made while at UT
14 Tyler?

15 A. He's made numerous threats or hate -- I would
16 characterize it as hate speech towards certain groups:
17 Jews, Muslims, single unwed mothers, supporters of
18 Black Lives Matter. Numerous people had reported him
19 making statements concerning "All Jews should die,
20 Israel should be nuked." He wishes that they could all
21 be "rounded up and put in the same place so they would
22 be easy to exterminate." Same way with Muslims, that
23 type of talk about Muslims. He made several of our
24 Veterans very nervous, going into the Veterans Resource
25 Center and telling them how envious he was of them

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1 because they probably got to go kill Muslims in their
2 military duties.

3 Again, just many statements toward groups of
4 people that he did not feel had a right to exist --
5 those were his words -- and that they should be
6 exterminated. So he's made a lot of people on campus
7 nervous, including our Muslim Student Association.

8 Q. As the Chief of Police there responsible for the
9 safety of the students, did he make you nervous?

10 A. Yes, he made me nervous.

11 Q. Did you consider him a danger?

12 A. Yes.

13 MR. COAN: I'll pass the witness.

14 THE COURT: Thank you.

15 Any cross-examination?

16 MR. MICKELSEN: Yes.

17 **CROSS-EXAMINATION**

18 **BY MR. MICKELSEN:**

19 Q. You say he engaged in a lot of hate speech, that's
20 clear; correct?

21 A. Correct.

22 Q. Did he engage in violence? Did he attack anybody
23 on the campus?

24 A. No, sir.

25 Q. Did he brandish a weapon or a weapon at anybody?

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1 A. No, sir.

2 Q. So, in fact, he was always cooperative with police?

3 A. He was cooperative with the police, other than
4 repeating his behavior that we advised him against, and
5 that would be engaging --

6 Q. Which is basically don't express your hate speech?

7 A. Correct. Hate -- well, don't let it reach into
8 criminal activity. Don't let it reach into an
9 incitement.

10 Q. Did it?

11 A. It very easily could have. We were there many
12 times that Mr. Yoo didn't even know we were there just
13 as a precautionary measure before his classes.

14 Q. I mean, it seems like, right, what's going on in
15 Tyler, at least where the rubber hits the road, I mean,
16 he is exercising a First Amendment right. He's
17 entitled to express his hate speech, he's not entitled
18 to engage in criminal conduct.

19 Did you ever make an arrest?

20 A. No, we did not.

21 Q. You said he was receiving counseling at school?

22 A. Yes.

23 Q. Do you know if -- do you know, did he have some
24 kind of diagnosis?

25 A. No, I'm not aware, I'm not privy to that

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1 information.

2 Q. Okay, fair enough.

3 MR. MICKELSEN: That's all I've got.

4 THE COURT: Thank you.

5 Any redirect?

6 MR. COAN: No, Your Honor. Thank you. May
7 this witness be excused?

8 THE COURT: Mr. Mickelsen, any objection to
9 this witness being excused?

10 MR. MICKELSEN: No, Judge.

11 THE COURT: All right, thank you, Chief. You
12 may step down and you may be excused. Thank you for
13 your testimony.

14 All right. Mr. Coan, I believe, is that
15 all your witnesses you're going to be calling?

16 MR. COAN: Those are all the Government's
17 witnesses, Your Honor.

18 THE COURT: All right, any other evidence the
19 Government has to present?

20 MR. COAN: If I may just briefly proffer the
21 Pretrial Services Report, Your Honor?

22 THE COURT: Yes, go ahead.

23 MR. COAN: All right. Your Honor, just
24 briefly, again, the United States is moving for
25 detention in this case on the grounds that there is no

1 set of conditions that can reasonably assure the
2 appearance of the defendant at future court proceedings
3 or that can protect the safety of the community.

4 Pretrial Services agrees with that
5 position and has recommended detention in this case.
6 According to the Pretrial Services Officer, the
7 defendant poses a risk of non-appearance based on the
8 offense charged, his mental health history, the pending
9 charges that were described earlier, the state charges,
10 as well Mr. Yoo's ties to a foreign country. The
11 witnesses did not elaborate too much on Mr. Yoo's ties
12 to a foreign country. That's explored more in the
13 background section of the Pretrial Services Report, the
14 section regarding family ties. Mr. Yoo obviously was
15 born in South Korea, hails from there. Members of his
16 family, both immediate and extended, are located in
17 South Korea.

18 As well, regarding the danger that Mr. Yoo
19 presents to the community, the Pretrial Services
20 Officer believed that the following supported that
21 position: The nature of the pending federal criminal
22 charges; the seven-count Indictment, all which charge
23 false statements and misrepresentations made in
24 connection with the acquisition of firearms in the
25 Eastern District of Texas; again, reference to

1 Mr. Yoo's mental health history; and also safety
2 concerns for the community.

3 I note for the record that the mental
4 health history that was -- that was described by the
5 witnesses was denied by the defendant during his
6 interview with the Pretrial Services Officer. So the
7 mental health history and any incidents of treatment or
8 hospitalization, whether voluntary or involuntary, are
9 not included in the Pretrial Services Report because
10 that's based on a self-report by the defendant and so
11 do not serve as a basis for the Pretrial Services
12 Officer's conclusion.

13 And with that, the United States rests.

14 THE COURT: All right. Mr. Mickelsen, you
15 said you had a proffer that you would like to make?

16 MR. MICKELSEN: Yes, Your Honor. May I
17 present this to you?

18 THE COURT: Yes, you may. Now, are you
19 proffering this, are you offering this as an exhibit,
20 or --

21 MR. MICKELSEN: Do you mind if I just offer
22 this as an exhibit? I'll offer it as an exhibit.

23 MR. COAN: No objection, Your Honor.

24 THE COURT: All right, so we'll mark this as
25 Defendant's Exhibit 1 for this hearing, no objection to

1 being admitted.

2 MR. MICKELSEN: And then, Your Honor, I guess
3 essentially what I'd like to do is talk a little bit
4 about that exhibit and then just some of the issues
5 that I think are -- if I may do that?

6 THE COURT: You may do that.

7 MR. MICKELSEN: What I want to say about that
8 exhibit essentially is that is a full cognitive
9 neurological assessment that is recent. There is no --
10 according to this neurological assessment, there is no
11 mental illness present. There's notably high IQ.

12 I think what is problematic about the --
13 Mr. Yoo has never considered himself to have a mental
14 illness. What is happening is he is exercising his
15 First Amendment right to engage in hate speech. As
16 deplorable as that might be, that does not make him
17 insane or mentally ill. That has led to his temporary
18 admission into psychiatric units and then his
19 subsequent release within days. He didn't report that
20 to Pretrial Services because he doesn't agree that
21 there is a mental illness.

22 And there are his family, who has
23 substantial resources, trying to gather their medical
24 evidence, but in the short time frame I had, this was
25 the only report I was able to find. And quite frankly,

1 his family has been concerned about the number of
2 police contacts, why he's engaging in this hate speech,
3 and why is it leading to these arrests. They've been
4 trying to find out what is going on with him, why he is
5 doing that. And the medical professionals, they are
6 not finding any evidence. Just because somebody has
7 latched onto disagreeable or reprehensible ideas, even,
8 does not make them mentally ill.

9 Now, I think that also goes to the danger
10 issue. I appreciate the Chief of Police from the Tyler
11 Police Department explaining what was going on there.
12 There is contact after contact after contact with the
13 police. That is because he is -- it is clear that
14 Mr. Yoo has made a habit of going out into the public,
15 into the public square, and engaging in hate speech,
16 which is divisive and has led people to call the police
17 and led to these confrontations. There is no criminal
18 history in this case so far. There have been arrests.
19 There has been a charge that's been dismissed. There's
20 one pending criminal trespass case.

21 Now, there's ties to a foreign community,
22 there's no question. Mr. Yoo is a national of South
23 Korea. I think it's almost -- there's just no real
24 risk of flight here given the facts. Really, what is
25 going on is his extreme loyalty, probably misplaced

1 patriotism, has led to him asserting he is a U.S.
2 citizen when he's not. Be that as it may, I think
3 there are conditions that can address all of these
4 concerns adequately. He can surrender his passport,
5 that can be a condition. He can be put on electronic
6 monitoring. He has the means. He doesn't have to
7 work. He doesn't have to leave his apartment apart
8 from getting groceries. He probably could even have
9 those delivered.

10 His firearms have been seized and
11 surrendered. There is -- there is -- I do agree, given
12 the nature of this case, it does make sense that the
13 Court would be concerned, but I think the Court should
14 be sensitive to the First Amendment aspects of this
15 case. I think we should not take the fact that a man
16 engages in hate speech and use that as a basis to deny
17 him his liberty when these are pending charges.

18 Also, I think the Government -- we talked
19 about this a little bit, I won't get into a Guideline
20 analysis. This is not the case in which the Guidelines
21 are high. We are talking about an allegation charge of
22 false representations made on these forms. He's not a
23 prohibited person, as far as we know under the law. If
24 he had been, then the Guidelines would be really high.

25 In all the cases I've researched, looking

1 into this issue, every single time that's what in
2 reality is going on. Somebody is lying on these forms,
3 disguising who they are or who they're getting the guns
4 for because those people are prohibited from having a
5 gun. That was not the case here. This is a man who
6 has engaged in hate speech and who crossed a red line,
7 indeed, by making false statements on these firearm
8 forms. But given that he's not a prohibited person,
9 the Guidelines would be relatively low.

10 And I think given the fact that the Court
11 can impose conditions, I get it, they should be strict.
12 But electronic monitoring, surrender the passport, no
13 guns, and counseling, all of this which can be provided
14 through Pretrial Services, I think that the Court, if
15 it can find adequate conditions to protect the public
16 and ensuring the appearance of the defendant, the Court
17 should impose those conditions.

18 THE COURT: All right, thank you.

19 Anything further from either side?

20 MR. COAN: Your Honor, may I briefly argue in
21 response?

22 THE COURT: Sure, go ahead.

23 MR. COAN: All right. This isn't always the
24 case, Your Honor. I happen to agree with a number of
25 the comments made by my counterpart. This is not a --

1 this is not a First Amendment case. The defendant has
2 not been charged with a hate crime. There is no
3 testimony elicited indicating that he had been subject
4 to state or federal arrest for any type of hate crime.
5 And that's not -- that's not the Government's position.
6 And I would venture to say that that's not the position
7 of Pretrial Services Department that because an
8 individual says distasteful things, that that in and of
9 itself indicates that an individual presents a danger
10 to himself or to the community.

11 In this particular set of circumstances,
12 it is a combination of factors, as the Court is aware,
13 under 3142(g). There are a host of factors the Court
14 is asked to look at in analysis of this question of
15 release. And it is the totality of the circumstances,
16 that is the Government's position, that indicates that
17 there is no set of conditions that would reasonably
18 assure the defendant's appearance or ensure the safety
19 of the community. It is the combination of we can call
20 it hate speech. But when there is hate -- and I'm
21 not -- I'm not going to stand up here and try to be a
22 constitutional scholar. That's not what this is about.
23 But there is hate speech and then there are threats of
24 violence, which are expressions of homicidal ideation,
25 and then there is documented mental illness.

1 Now, the defendant is denying and, in
2 fact, denied under oath to Your Honor that he had ever
3 received treatment for mental issues. We know from the
4 testimony that that is false. He has been diagnosed
5 with a disorder, bipolar disorder. That is a mental
6 illness. So he may deny it, but the evidence is to the
7 contrary. He has a mental illness, he has expressed
8 homicidal ideation, he has expressed threats of
9 violence, and he has lied and made misrepresentations
10 in order to acquire firearms. That combination is
11 volatile and that is the Government's position as to
12 why this individual presents a danger.

13 On the issue of flight, it's not the --
14 it's not the what's the potential Guideline range.
15 There will be an argument down the road about whether,
16 in fact, this individual is a prohibited person. I can
17 tell you that the Federal Government believes that he
18 is a prohibited person. That's why he was denied those
19 firearm purchases on the transactions that Special
20 Agent Reed testified about. Because according to the
21 FBI, he is a prohibited person as reported by the state
22 agency in the state of New Jersey. Now, he has not
23 been charged with that. That is not our argument
24 here. That will affect his exposure which will be a
25 consideration on the issue of flight. The other

1 consideration is, again, I'm not an immigration
2 specialist, but there may be immigration consequences
3 given his non-citizenship status based upon the end
4 result of this -- of this criminal case.

5 Your Honor, I appreciate the assessment
6 offered by defense counsel. It occurred in 2015. And
7 as they say, there's a lot of water that's gone under
8 the bridge since 2015, as you've heard testimony from
9 the Government's witnesses today. For those reasons,
10 as well as the reasons articulated by the Pretrial
11 Services Officer, the Government would submit that
12 they said there is no set of conditions that would
13 reasonably assure the appearance of the defendant or
14 ensure the safety of the community. And for that
15 reason, the Government would ask that the Motion for
16 Detention be granted.

17 THE COURT: All right, thank you.

18 MR. COAN: Thank you, Your Honor.

19 THE COURT: All right. In considering this
20 motion, I first want to note that I've considered the
21 Pretrial Services Report that's been prepared and
22 recommended that the defendant be detained. I've also,
23 of course, considered the testimony that I've heard
24 today, and I'll say there are several things that stand
25 out to me.

1 First of all, there is -- there are
2 concerns that I have with regard to the defendant's
3 mental health. Now, that may remain to be fleshed out
4 entirely. I am in receipt of this Defendant's Exhibit
5 1. But on balance, the testimony related to the
6 defendant's mental health gives me serious concerns
7 that conditions can't adequately address those concerns.

8 Further, in the balance are these -- the
9 testimony that I've heard regarding the defendant's
10 course of conduct, repeated instances of threats
11 towards individuals and groups, specifically of
12 shooting people. I'm not focused on hate speech, what
13 I would characterize as hate speech, hating a person,
14 hating a group. I'm focused on what I've heard are
15 threats to injure, kill people, shoot people. So that
16 factors heavily in my consideration of the Government's
17 Motion for Detention.

18 Also, factoring in heavily are the nature
19 of the charges here, which involved essentially false
20 statements made by the defendant to obtaining firearms.
21 And that was done on repeated occasions, done after
22 administrative and judicial assessment by the state of
23 Texas with regard to whether this defendant should
24 possess a concealed handgun license. And false
25 statements were further made after those proceedings.

1 So I do not find based upon all of those considerations
2 there can be conditions that would assure the safety of
3 the community here.

4 I further find that the defendant's ties
5 to South Korea are concerning. But furthermore, that
6 the defendant allegedly falsely indicated his
7 citizenship repeatedly is concerning to me. So I
8 likewise find that the Government has shown by a
9 preponderance of the evidence that there are no
10 conditions here that would adequately assure the
11 defendant's appearance in this case.

12 So, considering all the information that
13 I've assessed here, that I've referenced, I do find the
14 Government's motion should be granted for those reasons.

15 All right, anything further from the
16 Government?

17 MR. COAN: No, Your Honor. Thank you.

18 THE COURT: Anything further from the
19 defendant?

20 MR. MICKELSEN: No, Your Honor.

21 THE COURT: All right, thank you. The
22 defendant is remanded to the custody of the United
23 States Marshals and we are adjourned.

24 **[3:43 p.m. - Proceedings adjourned]**
25

C E R T I F I C A T I O N

I certify that the foregoing is a correct transcript of the electronic sound recording of the proceedings in the above-entitled matter.

/s/ Gwen Reed

8-15-18